

## AMENDMENTS

### In the Claims:

This listing of claims replaces all prior versions, and listings, of claims in the application:

1. (Currently Amended) An isolated nucleic acid molecule defining a promoter, comprising any one of:

(i) a sequence of nucleotides as set forth in SEQ ID NO:3;

(ii) a fragment of (i) wherein said fragment comprises at least residues of +1 to -368 of SEQ ID NO:3;

(iii) a homolog of (i) or (ii) comprising a sequence of nucleotides with at least 90% similarity to the sequence of nucleotides of (i) or (ii);

(iv) a sequence of nucleotides complementary to any one of (i), (ii) or (iii); or

(v) a sequence of nucleotides nucleotide sequence having at least 70% identity to SEQ ID NO:3 or a nucleotide sequence capable of hybridizing to any one of (i), (ii) (iii), or (iv) SEQ ID NO:3 under stringency conditions of hybridization and washing in 2 X SSC, 0.1% w/v SDS at 45°C; or a complementary sequence of nucleotides defining a promoter wherein, in its native form, the promoter directs expression of a gene encoding 1-aminocyclopropane-1-carboxylic acid (ACC) synthase and wherein the promoter is inducible in response to physical stimulation.

2-6. (Canceled)

7. (Currently Amended) An isolated promoter obtainable by the method of isolating genomic DNA from plant cells, rendering the genomic DNA or portion thereof single stranded and then identifying a region on the genomic DNA which hybridizes to a primer corresponding to all or part of SEQ ID NO:1 or a complementary form thereof and cloning DNA upstream of the region of primer hybridization, wherein the promoter comprises any one of:

(i) a sequence of nucleotides as set forth in SEQ ID NO:3;

(ii) a fragment of (i) wherein said fragment comprises at least residues of +1 to -368 of  
SEQ ID NO:3;

(iii) a homolog of (i) or (ii) comprising a sequence of nucleotides with at least 90%  
similarity to the sequence of nucleotides of (i) or (ii);

(iv) a sequence of nucleotides complementary to any one of (i), (ii) or (iii); or

(v) a sequence of nucleotides capable of hybridizing to any one of (i), (ii), (iii) or (iv)  
under stringency conditions of hybridization and washing in 2 X SSC, 0.1% w/v SDS at 45°C-a  
nucleotide sequence as set forth in SEQ ID NO:3, a nucleotide sequence having at least 70%  
identity to SEQ ID NO:3 or a nucleotide sequence capable of hybridizing to SEQ ID NO:3 under  
stringency conditions of hybridization and washing in 2 X SSC, 0.1% w/v SDS at 45°C.

8. (Canceled)

9. (Previously Presented) The isolated promoter of claim 7 obtainable by the method of

(i) amplifying a region of single stranded plant genomic DNA with the primers [4] SEQ  
ID NO:4 and SEQ ID NO:5;

(ii) optionally amplifying the amplified DNA of (i) above with primers selected from  
SEQ ID NO:6 and SEQ ID NO:7 or SEQ ID NO:8 and SEQ ID NO:9;

(iii) running amplified DNA on a gel and excising the product of amplification; and

(iv) subcloning product and identifying the promoter.

10. (Canceled)

11. (Currently Amended) A genetic construct comprising the promoter of claim ~~claims~~ 1, 7,  
9, and or 22 to 24.

12. (Previously Presented) The genetic construct of claim 11 further comprising a  
structural or regulatory gene operably linked to said promoter.

13. (Previously Presented) A method of altering a characteristic of a plant said method  
comprising introducing the genetic construct of claim 12 into a cell or group of cells of a plant and

wherein said structural or regulatory gene facilitates the altering of said plant characteristic, regenerating a plant or plantlet from said cell or group of cells carrying said introduced structural or regulatory gene and growing or subjecting said plant or plantlet to conditions sufficient to induce the promoter operably linked to said structural or regulatory gene.

14. (Previously Presented) The method of claim 13 wherein the altered plant characteristic comprises resistance to a plant pathogen, altered nutritional characteristics, expression of a plant body, an altered biochemical pathway, altered fertility and/or altered flower color.

15. (Currently Amended) A modular promoter, ~~said modular promoter~~ comprising at least one portion which is ~~derived~~ obtained from a promoter, comprising any one of:

(i) a sequence of nucleotides as set forth in SEQ ID NO:3;

(ii) a fragment of (i) wherein said fragment comprises at least residues of +1 to -368 of SEQ ID NO:3.

(iii) a homolog of (i) or (ii) comprising a sequence of nucleotides with at least 90% similarity to the sequence of nucleotides of (i) or (ii);

(iv) a sequence of nucleotides complementary to any one of (i), (ii) or (iii); or

(v) a sequence of nucleotides capable of hybridizing to any one of (i), (ii), (iii) or (iv) under stringency conditions of hybridization and washing in 2 X SSC, 0.1% w/v SDS at 45°C as set forth in SEQ ID NO:3 or a nucleotide sequence capable of hybridizing to SEQ ID:3 under stringency conditions of hybridization and washing in 2 X SSC, 0.1% w/v SDS at 45°C.

16-18. (Canceled)

19. (Currently Amended) A transgenic plant comprising a nucleic acid molecule according to any one of claims 1 and/or 22 to 24.

20. (Previously Presented) A vegetative or reproductive portion of the transgenic plant of claim 19.

21. (Previously Presented) A cut or severed flower from the transgenic plant of claim 19.

22. (Previously Presented) The isolated nucleic acid molecule according to claim 1, wherein the promoter directs expression of a nucleotide sequence as set forth in SEQ ID NO:1.

23. (Currently Amended) The isolated nucleic acid molecule according to claim 1, wherein the promoter directs expression of a nucleotide sequence which hybridizes under stringency conditions of hybridization and washing in  $6 \times$  SSC, 0.1% w/v SDS at ~~42°C~~ 45°C to a nucleotide sequence as set forth in SEQ ID NO:1.

24. (Previously Presented) The isolated nucleic acid molecule according to claim 1, wherein the promoter directs expression of a nucleotide sequence which encodes an amino acid sequence as set forth in SEQ ID NO:2.

25. (Canceled).